

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**MARILYN PICKAREE,**

**Plaintiff,**

**V.**

**BRIAN KIM; MASTERCARD  
INCORPORATED; MASTERCARD  
INTERNATIONAL, INC.;  
MASTERCARD TECHNOLOGIES,  
LLC; PAYPAL ASSET  
MANAGEMENT, INC; PAYPAL  
DATA SERVICES, INC; PAYPAL  
HOLDINGS, INC.; PAYPAL, INC.**

## Defendants.

**CIVIL ACTION NO.** \_\_\_\_\_

**DEFENDANTS MASTERCARD INCORPORATED'S, MASTERCARD  
INTERNATIONAL, INC.'S, AND MASTERCARD TECHNOLOGIES, LLC'S NOTICE  
OF REMOVAL PURSUANT TO 28 U.S.C. § 1331 (FEDERAL QUESTION)**

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendants Mastercard Incorporated, Mastercard International, Inc., and Mastercard Technologies, LLC (collectively “Mastercard”) hereby remove this action from the Harris County District Court of the State of Texas to the United States District Court for the Southern District of Texas, and in support state as follows:

1. Plaintiff Marilyn Pickaree filed an Original Petition, styled *Marilyn Pickaree v. Brian Kim, et al.*, Cause No. 2022-06259 (“State Court Action”), in the Harris County District Court of the State of Texas on January 31, 2022, and a Citation was issued on February 1, 2022. A copy of the Original Petition and Citation are attached as **Exhibit 1**.

2. Mastercard Technologies, LLC and Mastercard International, Inc. were served via registered agent on February 16, 2022, and Mastercard Incorporated was served on February 17, 2022.<sup>1</sup> Copies of all return receipts are attached as **Exhibit 2**.

3. Defendant Brian Kim filed an Original Answer in the State Court Action on February 22, 2022; Mastercard filed an Original Answer in the State Court Action on March 14, 2022; Plaintiff filed Initial Disclosures on February 22, 2022 and a Response to Defendant Brian Kim's Original Answer on March 14, 2022. Copies of these filings are attached as **Exhibit 3**.

4. The state court issued a Scheduling and Docket Control Order on March 9, 2022. This Order, Pickaree's Original Petition, Kim's Original Answer and Initial Disclosures, and Mastercard's Original Answer constitute all process, pleadings, and orders served on Defendants. A copy of the state court's Scheduling and Docket Control Order is attached as **Exhibit 4**. Pursuant to Local Rule 81, a copy of the State Court Action's docket and chronological case history and a list of counsel of record are attached as **Exhibit 5**.

4. Removal is proper because the Mastercard Defendants have timely filed this Notice within thirty (30) days of service, and all properly joined and served Defendants consent to the removal of this action. 28 U.S.C. § 1446(2)(A). Copies of Defendant Brian Kim's and the PayPal Defendants' Consent to Removal are attached as **Exhibit 6**.

5. This Court has original jurisdiction over this case this action under 28 U.S.C. § 1331 because this case arises under the Fair and Accurate Credit Transactions Act ("FACTA"), 15 U.S.C. § 1681 *et seq.*, which is a federal law. *See WickFire, L.L.C. v. Laura Woodruff; TriMax Media, L.L.C.*, 989 F.3d 343, 349 (5th Cir. 2021) (finding federal question jurisdiction when plaintiff asserted a Lanham Act claim).

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<sup>1</sup> The Court can find the February 17, 2022 date-stamp over the USPS Tracking # on page 2 of the return receipt for Mastercard Incorporated.

6. Nearly every allegation in the State Court Action references FACTA or alleges Defendants violated FACTA. (*See generally* Compl.)

7. FACTA provides that any action alleging a violation of its provisions “may be brought in an appropriate United States district court without regard to the amount in controversy.” 15 U.S.C. § 1681p.

7. The state court in which this action was commenced is within this Court’s District.

8. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the Harris County District Court of the State of Texas, and a copy of this Notice of Removal will also be served on Plaintiff.

9. Defendants reserve the right to assert all defenses, objections, and counterclaims to the Complaint.

WHEREFORE, Defendants hereby remove the State Court Action pending as *Marilyn Pickaree v. Brian Kim, et al.*, Cause No. 2022-06259 (“State Court Action”), in the Harris County District Court of the State of Texas, to this Court.

Dated: March 18, 2022

Respectfully Submitted,

POLSINELLI PC

/s/ Matthew R. Frontz

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*Attorney for Mastercard Defendants*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served via electronic mail upon all counsel of record, as identified below, on March 18, 2022:

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/s/ Matthew R. Frontz  
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